

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MICHAEL ALLEN YOCOM,

Petitioner,

v.

KATHLEEN ALLISON, LAURA
ELDRIDGE, AND ATTORNEY
GENERAL,

Respondents.

Case No. 1:21-cv-00187-HBK

ORDER DENYING PETITIONER'S MOTION
FOR EMERGENCY PROTECTIVE ORDER

(Doc. No. 11)

Petitioner Michael Allen Yocom, a state prisoner proceeding *pro se*, has pending a petition for writ of habeas corpus under 28 U.S.C. § 2254. (Doc. No. 1). Before the court is petitioner's motion for emergency protective order. (Doc. No. 11).

Petitioner alleges that certain prison personnel are retaliating against him, have wrongfully transferred him to a quarantine unit, are torturing him, and are denying him access to medical care and mailing envelopes. (*See generally* Doc. No. 11). Petitioner requests that this court order petitioner be transferred into the custody of the federal prison system. (*Id.* at 4). Such claims turn on petitioner's conditions of confinement and are inappropriate on habeas review. *See Badea v. Cox*, 931 F. 2d 573, 574 (9th Cir. 1991) (noting purpose of habeas is to challenge "legality or duration" of a petitioner's incarceration, quoting *Preiser v. Rodriguez*, 411 U.S. 475, 485 (1973)).

1 Instead, “a [42 U.S.C.] § 1983 action is a proper remedy for a state prisoner who is making a
2 constitutional challenge to the conditions of his prison life.” *Preiser*, 411 U.S. at 499. Therefore,
3 to the extent petitioner wishes to challenge his conditions of confinement, he should do so in a
4 § 1983 civil rights action.¹ Although the clerk of court recently provided petitioner with a blank
5 § 1983 civil rights complaint form (Doc. No. 8), petitioner’s place of confinement was recently
6 changed. (Doc. Nos. 9, 10). Therefore, out of an abundance of caution, the court will direct the
7 clerk to send an additional blank § 1983 civil rights complaint form to petitioner’s updated
8 address.

9 Accordingly, it is **ORDERED**:

- 10 1. Petitioner’s motion for emergency protective order (Doc. No. 11) is **DENIED**.
- 11 2. The clerk of court is directed to provide petitioner with a blank § 1983 civil rights
12 complaint form.

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14 IT IS SO ORDERED.

15 Dated: March 25, 2021


HELENA M. BARCH-KUCHTA
UNITED STATES MAGISTRATE JUDGE

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28 ¹ The court, by separate order, has directed the clerk of court to notify the appropriate prison officials of
petitioner’s claims.